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Paper No. 7

DAVID G HENRY
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WACO TX 76703-1470

COPY MAILED

OCT 28 2003

OFFICE OF PETITIONS

ON RENEWED PETITION

In re Application of
David Glanzman
Application No. 09/669,234
Filed: September 25, 2000
Attorney Docket No. Glanzman-Tent

This is a decision on the renewed petition under 37 CFR 1.137(a),
filed October 16, 2003,¹ which is also being treated as a petition
under 37 CFR 1.137(b).¹

The petition under 37 CFR 1.137(a) is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application, mailed November 7, 2000. This Notice set a shortened statutory period for reply of three months to submit the statutory basic filing fee, the oath or declaration, and the surcharge for late filing of the oath or declaration. NO extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the above-identified application became abandoned on February 8, 2001. A Notice of Abandonment was mailed on August 16, 2002. Applicant filed a petition to revive under 37 CFR 1.137(a) on September 15, 2003. However, this petition was dismissed in a decision mailed on October 2, 2003.

The petition was dismissed because petitioner did not establish non-receipt of the Office action.² In addition, petitioner failed to file the required reply, here consisting of an executed

¹ The petitions attorney received verbal confirmation from attorney Henry to treat the 37 CFR 1.137(a) petition as a petition under 37 CFR 1.137(b) in a telephone interview on October 27, 2003.

² Petitioner did not include a copy of his docket records.

declaration, the statutory basic filing fee, and the surcharge for late filing of the declaration.

Petitioner filed the instant renewed petition on October 16, 2003.

Upon examining the renewed petition, the Notice to File Missing Parts of Nonprovisional Application was found in the application file, attached to the originally mailed envelope. The envelope was stamped "Returned to Sender" and the address that the Notice was mailed to (David G. Henry, 5th-8th Floors, 900 Washington Ave, Waco, TX 76702) was marked as being an "invalid address". Accordingly, there is no longer a question of whether the Notice was received by petitioner. The question instead is whether the address at the time the Notice was mailed was a valid, working address.

Rather than deal with this new issue on a second renewed petition under 37 CFR 1.137(a), petitioner has authorized the petition to be treated as a petition under 37 CFR 1.137(b). Petitioner has met the requirements for a grantable petition under 37 CFR 1.137(b). Petitioner authorized payment of the petition fee to his deposit account, made the proper statement of unintentional delay, and filed the required reply in the form of an executed declaration, the statutory basic filing fee, and the surcharge for late filing of the declaration.

The petition fee of \$665 has been charged to Deposit Account No. 50-0894, as authorized. Also charged to the deposit account were the \$385 statutory basic filing fee and the \$65 surcharge for late filing of the declaration.

The change of correspondence address submitted with the instant petition has been entered. Future correspondence concerning this application will be mailed to the above address of record.

The application file is being forwarded to the Office of Initial Patent Examination for pre-examination processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (703) 305-0272.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions



10-17-03

#6 DAC

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF:

Glanzman

SERIAL NO. 09/669,234

FILED: 09/25/2000

TITLE: METHOD FOR LEAK-
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OCT 21 2003

OFFICE OF PETITIONS

EXAMINER:

GROUP ART UNIT:

MAIL STOP PETITIONS
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Renewed Petition Under 37 C.F.R. 1.137(a)

Attn: Cliff Congo

Applicant respectfully renews its petition under 37 C.F.R. 1.137(a) pertaining the above application on the basis of the following:

Any and all fees remaining due in connection with the subject application and petition, including, but not limited to, the remaining amount of the petition fee under 37 CFR 1.8, may be charged to the deposit account of the undersigned, Account No. 50-0894.

Applicant hereby consents to such terminal disclaimer as may be required pursuant to 37 C.F.R. 1.137(d).

The entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

All remaining portions of the grantable petition accompany this communication.

Enclosed is an inventor's declaration as indicated to be required in the original Notice to File Missing Parts. Please note that all fees associated with the Notice to File Missing Parts may be charged to the undersigned's Deposit Account - Account No. 50-0894.

10/28/2003 AKELLEY 00000016 500894 09669234

01 FC:2453	665.00 DA
02 FC:2001	385.00 DA
03 FC:2051	65.00 DA

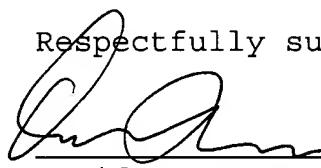
identified application be revived pursuant to 37 CFR 1.137(a).

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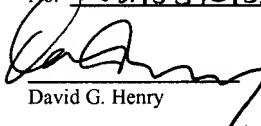
Respectfully submitted,



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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as EXPRESS MAIL POST OFFICE TO ADDRESSEE in an envelope addressed to: MAIL STOP PETITIONS; Commissioner for Patents; P.O. BOX 1450; Alexandria, VA 22313-1450; and bearing Express Mail Label No. EV 218510735 on this the 16th day of October, 2003.



David G. Henry

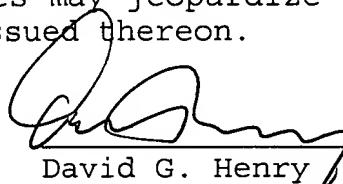
Also enclosed is a photocopy of the physical calendar on which in-coming, deadline pertinent mailings from the PTO (and others) were entered during the time frame at issue. The process was to enter on the DUE DATE that which arrived on any given day by mail. A review of the accompanying copies (including exemplary copies of earlier months, for context) will reveal entries for a number of PTO deadlines, but none appearing on January 7, 2001 (or the following Monday, the 8th) - the due date for response to the Notice to File Missing Parts. In the ordinary course of business, the due date for response to the Notice to File Missing Parts would have first been entered on the subject calendar, when the Notice arrived by mail. Additional, computer-based docketing means are also employed, but records from that time frame are no longer available, and to the personal recollection of the undersigned, no reminders from same were ever generated and received.

Finally, a copy of the Notice to File Missing Parts accompanies this communication.

In view of the above, it is respectfully submitted that all requirements for a grantable petition under 37 C.F.R. 1.137(a) have now been met.

DECLARATION

My name is David G. Henry, Reg. No. 32,735. I am the Attorney for U.S. Patent Application No. 09/669,234. I declare that I have read the statements made in the subject Petition to Revive and in this Re-Urging of same, and the same are, to my personal knowledge, true and correct, or if made on information and belief, are believed true and correct, and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of the Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.



David G. Henry

10/15/03
Date

WHEREFORE, Applicant respectfully requests that the above-